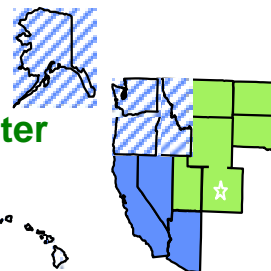




U.S. Army Environmental Center Western Regional Environmental REGION VIII - JULY 1999



WESTERN REGIONAL REVIEW

This publication provides current information on significant regulatory and legislative developments and related information in the Federal Region VIII area (Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming) that affect U.S. Army activities and operations. We appreciate your feedback and encourage you to submit suggestions for future discussion. Please contact us at, Western Regional Environmental Office, ATTN: SFIM-AEC-WR, Building 111, Commerce City, CO 80022-1748, commercial (303) 289-0125, DSN 749-2125, FAX (303) 289-0272, or e-mail: redgerto@pmrma-emh1.army.mil

WESTERN REGIONAL REVIEWS AVAILABLE ON THE INTERNET

Current and past issues of the *WESTERN REGIONAL REVIEW* for Regions VIII, IX, and X are available on the Internet at <http://aec.army.mil/prod/usaec/ro/western/updates/wupdates.htm>.

FEDERAL REGULATORY DEVELOPMENTS

Resource Conservation and Recovery Act (RCRA):

EPA to Inspect Federal Facilities for Compliance with Recycled Content Mandates

The EPA announces that it will begin inspecting federal facilities for compliance with buy-recycled requirements of the Resource Conservation & Recovery Act (RCRA). The EPA will particularly be scrutinizing compliance at motor vehicle maintenance areas, the Agency's guidance states. The EPA plans to focus on information collection and awareness of requirements, rather than enforcement, during the first year of the policy's implementation. The EPA's inspection activities "should focus primarily on information collection," the guidance advises. The EPA issued the guidance on 12 May 1999, as directed by Executive Order 13101, which significantly increases the authority of environmental officials to require DoD and other federal agencies to use environmentally friendly materials. The order, in part, directs the EPA to write guidance for inspections aimed at determining whether federal facilities are in compliance with the buy-recycled program established by section 6002 of RCRA (Defense Environment Alert, 22 September 1998). Section 6002 sets up the program for federal purchases of recycled content products.

The new guidance has prompted the DoD to make plans to publicize the new area of inspection to military installations, according to a military source. This source would not comment on whether the military services are generally in compliance with the RCRA buy-recycled provisions. An EPA source says DoD has a "fairly aggressive" recycled content program, but this source could not speak to DoD's compliance with section 6002. "That's what the inspections are about," the source says. The EPA compliance inspectors are to use the guidance during RCRA inspections or in multi-media regulatory compliance inspections where RCRA compliance is a component of that inspection.

Under the law, the EPA has designated items under its Comprehensive Procurement Guidelines (CPG) program that are or can be made with recovered materials. Subsequently, procurement agencies such as DoD must buy items with the highest percentage of recovered materials practicable. The EPA currently has designated 36 products in its CPG program and has made recommendations for the recycled content level for each of these products.

The EPA will target motor vehicle maintenance shops specifically for inspections because each of the three CPG-designated vehicular products have existed for a long time and received considerable attention from federal agencies. "Therefore, during the first year of implementing the inspections called for in EO 13101, EPA has elected to gather information on facility compliance with this aspect of the CPG program," the guidance says.

Under the inspection procedures, the EPA recommends recovered material content levels for re-refined oils and lubricants, retread tires, and engine coolant. The re-refined oil content should be no lower than 25 percent re-refined oil. For tires, either obtain tire retreading services for worn tires or buy retread tires as replacements. In addressing the use of engine coolants, the EPA recommends motor pools establish programs for reclaiming and reusing engine coolant.

The EPA's authority to enforce the buy-recycled content provisions is limited. The Agency cannot issue administrative penalty actions or orders under RCRA's enforcement authorities. It can, however, issue notices of violation or consent to compliance agreements at federal facilities in violation of section 6002, according to the guidance. For additional information on these developments, view the EPA's Internet site at <http://www.epa.gov/epaoswer/non-hw/procure/glossary.htm> or contact Ms. Diane Connolly of the WREO at (303) 289-0459 (commercial) or 749-2459 (DSN).

Adequacy of State Permit Programs under RCRA Subtitle D

The EPA is taking direct final action to streamline the approval process for specified States' permit programs for solid waste disposal facilities other than municipal solid waste landfills (MSWLFs) that receive conditionally exempt small quantity generator (CESQG) hazardous waste. States whose Subtitle D MSWLF permit programs or Subtitle C hazardous waste management programs have been reviewed and approved or authorized by the EPA are eligible for this streamlined approval process if their State programs require the disposal of CESQG hazardous waste in suitable facilities. The EPA is issuing an adequacy determination to the following State programs: Arizona, California, Colorado, North Dakota, South Dakota, Utah, and Wyoming. This final rule will become effective 7 September 1999, unless the EPA receives relevant adverse comment. For information on the final rule, contact the RCRA Hotline at (800) 424-9346.

Clean Air Act (CAA):

NESHAP Final Rules for Natural Gas Transmission and Storage

The U.S. Environmental Protection Agency (EPA) announces final rules concerning national emission standards for hazardous air pollutants (NESHAP) limit emissions of hazardous air pollutants (HAP) from oil and natural gas production and natural gas transmission and storage facilities. These final rules implement section 112 of the Clean Air Act (Act) and are based on the EPA's determination that natural gas transmission and storage facilities emit HAP identified on the EPA's list of 188 HAP. The EPA estimates that approximately 69,000 megagrams per year (Mg/yr) of HAP are emitted from facilities in these source categories. The primary HAP emitted by the facilities covered by these final standards include benzene, toluene, ethyl benzene, mixed xylenes (collectively referred to as BTEX), and n-hexane. Benzene is carcinogenic and has also been shown to cause various adverse health effects other than cancer. The other four HAP are not classified as carcinogens based on available information; however, exposures to these four HAP have been shown to cause various noncancer effects. The EPA estimates that these promulgated NESHAP will reduce HAP emissions from major sources in the natural gas transmission and storage source category by 95.0 percent. This regulation is effective as of 17 June 1999. For information concerning the final rules, contact the EPA at (919) 541-3078.

Clean Water Act (CWA):**Proposed Unified Federal Policy for Watershed Management on Federal Lands**

The U.S. Departments of Agriculture and the Interior released a draft of a Unified Federal Policy for Ensuring a Watershed Approach to Federal Land and Resource Management to Congress, tribes, states, and interested stakeholders. The proposed policy, a key action of the President's Clean Water Action Plan, has two primary goals: to use a watershed approach to prevent and reduce water pollution resulting from federal land and resource management activities and to accomplish this in a unified and cost effective manner. After this consultation period, a new draft of the Unified Federal Policy will be put in the Federal Register for a 90-day public comment period in late July. For a copy of the draft, visit the Bureau of Land Management at <http://www.blm.gov/> or the Forest Service at <http://www.fs.fed.us/clean/unified/> on the Internet.

Environmental Protection and Community Right-to-Know Act (EPCRA):**New EPA Office to Focus on TRI, Confidential Information, and FOIA**

The EPA announces the formation of a new information office within the Agency that will develop new regulations for the Toxic Release Inventory (TRI). The new office will also take the lead in revising rules on confidential business information (CBI) and administering Freedom of Information Act (FOIA) requests. Early indications are that the new office will attempt to lower the reporting thresholds for some chemicals, shorten the time frame for facilities to report corrections, and speed up the release of annual data compilations. The new office is scheduled be operational in August or September of this year. Development of an "information plan" for the office will begin in September, EPA officials have announced. The WREO will continue to monitor the development of the new office and report updates in a timely manner.

Emergency Responders not to Rely on Material Safety Data Sheets

An alert issued by the EPA warns local emergency responders not to rely solely on Material Safety Data Sheets (MSDSs) provided or maintained at facilities during a chemical accident. Information about the chemicals involved in an accident is critical to a safe response. Generally, responders rely primarily on MSDSs maintained at the facilities. However, MSDSs alone frequently do not provide local responders sufficient information to effectively and safely respond to an accidental release of a chemical. The EPA's alert is designed to increase awareness, so that first responders can take proper precautions. The alert identifies additional sources of chemical information that could help prevent the loss of life. MSDSs provide important information on the physical/chemical characteristics and first aid procedures. However, the content of the MSDSs on emergency response procedures, fire and reactive hazards may be insufficient for local responders in an emergency situation. Local officials should recognize the importance of preplanning with facilities in their communities that store or use hazardous materials. Sufficient and correct information regarding chemicals in an accidental release can make the difference between successful emergency response and potential disaster for local responders and the community. The alert is available on EPA's web page at <http://www.epa.gov/ceppo/> under "What's New." Copies also are available through the EPCRA hotline by calling (800) 424-9346.

Endangered Species Act (ESA):**Availability of Endangered Species Consultation Handbook for Activities under Section 7**

The U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) announce the availability of their final joint Endangered Species Consultation Handbook. This document provides internal guidance to all employees of the two agencies relative to conducting consultations and conferences under Section 7 of the ESA, as amended. Its purpose is to provide policy and guidance for

Section 7 procedures to promote efficiency and nationwide consistency within and between the FWS/NMFS and other federal agencies. Although intended primarily as internal agency guidance, this handbook is fully available for public information and use. Visit the FWS Internet website at <http://www.fws.gov/rpendspp/section7/section7.htm> to obtain a copy of the handbook, or contact the FWS at (703) 358-2106.

Miscellaneous:

Final Rule on Lead-Based Paint Hazards Becomes Effective

The EPA's final rule on lead-based paint hazards during renovation or remodeling activities took effect on 1 June 1999. The rule requires renovators to give homeowners/tenants a pamphlet containing information on how to protect their families from lead hazards before beginning renovation activities which disturb more than two square feet of paint in pre-1978 housing. It is estimated that 80 percent of all residential dwellings built before 1978 contain some lead-based paint. When lead-based paint is disturbed during renovation, it may contaminate dust and soil, posing hazards, especially to young children. When appropriate dust-control practices are followed during renovations, the potential for lead exposure can be minimized. About one million children under the age of six have elevated blood lead levels, making lead poisoning the number one environmental health hazard to children. Copies of the final regulation, interpretive guidance on the regulation, and the required federal pamphlet, entitled "Protect Your Family From Lead in Your Home," can be found on the EPA's web site at <http://www.epa.gov/lead/> or by calling (800) 424-LEAD.

Exemption for Certain Hydrocarbon Fuels from the RMP

The EPA has issued an interim administrative stay of the effective date of the risk management program (RMP) rule as it applies to flammable hydrocarbon fuels including propane, butane, ethane, methane and others stored in quantities no greater than 67,000 pounds in process. This administrative stay extends the scope of a court-ordered stay, issued April 27 1999 by the U.S. Court of Appeals, to parties that use RMP listed flammable hydrocarbons. Parties now covered by the EPA's stay include distributors and users of natural gas/liquified natural gas, utilities and exotic fuel users. In addition, the EPA also proposed a rule to establish this exemption. A final rule is expected in the fall; a copy of the Federal Register notice will be published soon. Once published, the Federal Register notice will be available via the EPA's web page at <http://www.epa.gov/ceppo/> under "What's New."

Renewable Energy Pollution Prevention Information Available On Line

The EPA has developed a new web site that provides information about the pollution prevention benefits of using renewable energy, including solar, wind, biomass, hydro and geothermal energy. It also advises consumers how to obtain electricity from green power marketers and utilities providing green pricing options. Green power is generated by using renewable energy sources, whereas most electricity is generated by burning fossil fuels. Emissions from electricity generation plants burning fossil fuel are substantial contributors to health and environmental problems, including ground-level ozone, acid rain, fine particulate pollution, nitrogen deposition, toxic air pollutants and global climate change. Renewable energy technologies provide an opportunity for substantial reductions in emissions of greenhouse gases and other pollutants. The new EPA website is located at <http://www.epa.gov/solar/>.

Region VIII DoD Pollution Prevention Information Available On Line

The EPA's regional offices each fund an organization whose primary purpose is to facilitate networking and exchange of pollution prevention information in their respective regions. The Montana State University Extension Service provides this service in Region VIII through the "Peaks to Prairies" information center. The center is a member of the Pollution Prevention Resource Exchange, a national network of pollution prevention information centers. DoD pollution prevention information is now available on the Peaks to

Prairies Internet home page at <http://www.montana.edu/wwwpeaks/>. The reader can access DoD-related pollution prevention information that currently includes the Joint Service Pollution Prevention Technical Library, the Fielding Environmental Solutions newsletter, and minutes from the Region VIII Pollution Prevention Partnership and the Colorado Interagency Environmental Network meetings. To access the information, go to the home page and click on "Contacts," then click on "Department of Defense." Contact Tim Blume at (303) 289-0117 or DSN 749-2117 for more information.

CONFERENCES AND SYMPOSIUMS

- **26-29 September 1999: National Recycling Coalition Annual Congress and Exposition – Cincinnati, OH.** The emphasis for this year's exposition is on recycling success stories. Recycling professionals from around the country will gather to share ideas, experiences and knowledge. Registration information may be obtained by calling the National Recycling Coalition at (703) 683-9025.

COLORADO

Legislative Developments

The First Regular Session of the 62nd Colorado General Assembly adjourned on 5 May 1999. The Governor had until 4 June 1999 to act on legislation sent for his consideration.

House Bill 1181: Emission Requirements for Government Vehicles

Summary: Makes motor vehicles owned by the federal government or by the state or any agency or political subdivision thereof registered in the program area subject to the same emissions inspections requirements as privately owned motor vehicles.

Status: Signed by the House Speaker and Senate President on 26 April 1999. Transmitted to the Governor on 26 April for his consideration.

Outlook: Governor Owens signed the bill into law on 28 May 1999.

House Bill 1351: Air Pollution Affecting Visibility

Summary: Directs the Air Quality Control Commission (AQCC) in the Colorado Department of Public Health and Environment to conduct rule-making hearings at least every 5 years, to approve updates to the emission inventories from federal and state activities on public lands resulting in the emission of criteria pollutants affecting visibility in federal Class I wilderness areas. Incorporates such inventories into the state implementation plan (SIP) planning and approval process. Requires public participation in the rule-making hearings on the emission inventories and specifies that the inventories shall include stationary sources, off-highway mobile sources, fires, and biogenic sources. Allows the use of data developed within the preceding 3 years so long as the data are no more than 5 years old. Excludes emissions that the commission determines are of minor significance. For emission inventories relating to federal lands, provides that the cost of such inventories shall be borne by the federal government.

Status: Passed the House on 27 April and the Senate on 3 May. Transmitted to Governor Owens for his consideration on 3 May 1999.

Outlook: Governor Owens signed the bill into law on 2 June 1999.

Regulatory Developments

Air Quality:

- **Direct Final Rule: Approval and Promulgation of the SIP.** The EPA approves three revisions to the Colorado State Implementation Plan (SIP). The SIP revisions being approved include an update to the State's list of negligibly reactive volatile organic compounds (VOCs) to add acetone. The State also consolidated the list of negligibly reactive VOCs from Regulations No. 3 and 7 into the Common

Provisions Regulation to add perchloroethylene. The State also repealed its requirements in Regulation No. 7 that required control of VOC emissions from dry cleaning facilities using perchloroethylene as a solvent. The EPA approves the revisions because they are consistent with the requirements of the Clean Air Act (Act) and the Federal regulations. The rule is effective on 16 August 1999 without further notice, unless the EPA receives adverse comment. For further information, contact the EPA at (303) 312-6445.

Water Quality:

- **Notice: Biosolids Regulation Triennial Review.** An informational hearing will be held on 12 July 1999 for the triennial review of the Colorado Department of Public Health and Environment's (CDPHE) Biosolids Regulation (Regulation Number 66 5 CCR 1002-64). The public meeting will take place at the CDPHE's offices, beginning at 1130 hours. Any recommended changes will be proposed as regulatory changes for subsequent rulemaking. Contact the WREO at (303) 289-0117 or DSN 749-2117 for more information.

MONTANA***Regulatory Developments***

No significant regulatory developments were noted for the State of Montana during the reporting period.

NORTH DAKOTA***Regulatory Developments*****Air Quality:**

- **Direct Final Rule: Approval of Operating Permit Program.** The EPA is promulgating full approval of the operating permit program submitted by the State of North Dakota. North Dakota's operating permit program was submitted for the purpose of meeting the federal Clean Air Act directive that states develop, and submit to the EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the states' jurisdiction. The direct final rule is effective on 16 August 1999, unless the EPA receives adverse comment. For additional information, contact the EPA at (303) 312-6435.

SOUTH DAKOTA***Regulatory Developments*****Solid/Hazardous Waste:**

- **Direct Final Rule: Approval of Plans for Designated Facilities and Pollutants.** The EPA announces its approval of the South Dakota plan and regulations for controlling landfill gas emissions from existing municipal solid waste (MSW) landfills. South Dakota's regulations require existing MSW landfills to install a landfill gas collection and control system, if the MSW landfill's design capacity and non-methane organic compound (NMOC) emissions are above certain thresholds. South Dakota submitted this plan to meet the requirements of Section 111(d) of the Clean Air Act (Act) and the EPA's Emission Guidelines for existing MSW landfills at 40 CFR part 60, subpart Cc. The rule is effective on 2 August 1999 unless the EPA receives adverse comment. For further information, contact the EPA at (303) 312-6445.

- **Proposed Rule: Adoption of EPA Military Munitions Rule and Other EPA Hazardous Waste Regulations.** The South Dakota Board of Minerals and Environment (SDBME) proposes to adopt revisions to EPA hazardous waste regulations that have been promulgated from 1 July 1996 to 30 June 1998. The effect of these rules will be to update existing hazardous waste rules by incorporating the federal rules by reference. The State's rules will then be substantially the same as the federal rules. This includes adoption of the EPA Military Munitions Rule. Changes to the rules include clarification to the recycled used oil management standards, establishment of treatment standards for certain hazardous wastes, and standards for the storage of hazardous wastes. For additional information, contact the SDBME at (605) 773-3153.

UTAH

Regulatory Developments

Air Quality:

- **Final Rule: Stationary Controls.** The Utah Department of Environmental Quality (UDEQ) has amended its air regulations (R307-403 and 420) concerning permits of new and modified sources in nonattainment areas and maintenance areas, and ozone offset requirements in Davis and Salt Lake Counties. The UDEQ proposed these amendments to clarify existing regulations. The amendments move the ozone provisions applying to Davis and Salt Lake City to their own section (R307-420) and clarify how the provisions work. The final rule is effective immediately. For more information, contact the UDEQ at (801) 5536-4042.
- **Proposed Rule: Standards of Performance for New Stationary Sources.** The UDEQ proposes to amend R307-210 to incorporate by reference all of 40 CFR 60, Standards of Performance for New Stationary Sources. This amendment allows Utah to enforce new requirements for municipal solid waste landfills, new fossil-fuel fired steam generating units, and electric arc furnaces. None of the changes have any significant effect on air pollution sources in Utah. In addition, recordkeeping and reporting requirements are reduced from quarterly to semi-annually for all sources subject to this rule. For additional information, contact the UDEQ at (801) 536-4042.
- **Proposed Rule: Operating Permit Requirements.** The UDEQ proposes to amend subsections R307-415-6a(3) and R307-415-6c(5), adding language from 40 CFR 64, as published on 1 October 1997, revising monitoring requirements for owners or operators of certain sources subject to the 40 CFR 70 Operating Permit program. This is commonly called the "Compliance Assurance Monitoring," (CAM) rule. The new provisions require that monitoring provide a reasonable assurance of compliance with applicable requirements. Each affected source also is required to identify its compliance status for each permit condition, the methods used to determine each status, and whether the method provided intermittent or continuous data, a clarification long sought by the Division of Air Quality (DAQ) and sources. Contact the UDEQ at (801) 536-4042 for more information.

Solid/Hazardous Waste:

- **Proposed Rule: Adoption of Federal Standards.** The UDEQ proposes to adopt equivalent federal regulations to maintain equivalency with the EPA's rules and retain authorization. This proposed rule change exempts all generators and transporters of hazardous waste from the Resource Conservation and Recovery Act (RCRA) manifest system requirements for the transportation of hazardous waste on public or private right-of-ways on or along the border of contiguous properties, under the control of the same person, regardless of whether the contiguous properties are divided by right-of-ways. For additional information, contact the UDEQ at (801) 538-6170.
- **Proposed Rule: Environmental Response and Remediation.** The UDEQ proposes to amend Regulations R311-200-1 and R311-205-2 to add the term/definition "Practical Quantitation Limit" to clarify terminology used for laboratory analysis. In addition, reporting ranges have been clarified to

provide consistency between different sampling events and different laboratories. For additional information, contact the UDEQ at (801) 536-4100.

WYOMING

Regulatory Developments

No significant regulatory developments were noted for the State of Wyoming during the reporting period.